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**101: General Authority and Mission**

- A. The Illinois Long Term Care Ombudsman Program (Program) is authorized by and in accord with the federal Older Americans Act, 42 U.S.C. Section 3001 *et seq.* and the Illinois Act on Aging, 20 ILCS 105/4.04.
- B. The Program protects and improves the quality of care and quality of life for residents of long term care facilities in Illinois through individual and systemic advocacy for and on behalf of residents, including representing the interests of residents before government agencies, reviewing and commenting on existing and proposed laws, seeking out and responding to media requests, the promotion and cultivation of best practices within long term care services, and through the promotion of family and community involvement in long term care facilities.
- C. The Program was expanded and given authority in 2013, to provide advocacy services to participants of (1) a medical assistance waiver programs administered by the State, and (2) a managed care organization providing care coordination and other services to seniors and persons with disabilities.
- D. The Program is a resident and participant centered advocacy program. The resident or participant is the program's client, regardless of the source of the complaint or request for service. The Ombudsman will make every reasonable effort to assist, empower, represent, and advocate on behalf of the resident and participant.
- E. The service components of the Program include identifying, investigating, and resolving complaints; regular presence in long-term care facilities; consultation and community education; issue advocacy; and support the development of resident and family councils.
- F. Processing complaints made by or on the behalf of residents or participants and resolving the problems and questions of residents of long term care facilities is the highest priority service of the Program. Principles and techniques of empowerment are to be used whenever possible when addressing residents' complaints and problems.
- G. These policies and procedures govern the operations of the Program and establishes the relationship and responsibilities of Provider Agencies, AAA's, and the Illinois Department on Aging, in relation to the Program.

**102: Structure of the Illinois Long-Term Care Ombudsman Program**

- A. The Department shall establish an Office of the State Long-Term Care Ombudsman (“Office”) which will operate a statewide Long-Term Care Ombudsman Program (“Program”) in accordance with the Older Americans Act, the Illinois Act on Aging, and applicable federal and state regulations.
- B. The Office shall assure that all residents of Illinois long-term care facilities and participants of medical assistance waivers and managed care organizations have access to the services of the Program and that every area of the State has a designated Regional Program.
- C. Regional Program services shall be delivered through provider agencies and individuals designated by the Office and shall be operated through a grant or contract with the Department or an Area Agency on Aging (AAA).

**103: Organization of this Policies and Procedures Manual**

The general organization of this Manual is as follows:

**Chapter 100: Introduction/Definitions**

describes the mission, responsibilities and authority of the Illinois Long-Term Care Ombudsman Program, the organization of this Manual, the procedures to follow to revise any portion of this manual, and lists and defines the terms used throughout this Manual.

**Chapter 200: Organizational Responsibilities**

describes the process for certification, decertification, designation and de-designation of Ombudsmen and Provider Agencies.

**Chapter 300: Designation**

describes the organizational standards and responsibilities of the Department, the Office, the State Ombudsman, the Area Agency on Aging, Provider Agencies, and the Regional Programs in relation to the Program.

**Chapter 400: Long-Term Care Ombudsman Program Service Delivery Policies and Procedures**

describes the five service delivery components to be provided by the Program through Regional Programs.

**Chapter 500: Protocols for Problem Resolution and Investigative Services**

provides the Regional Programs with the minimum guidelines for investigating, verifying, and resolving complaints received by or on behalf of long-term care residents.

**Chapter 600: Access to Residents and Facilities, Residents' Records, and State and Facility Records**

explains how to gain access to residents and facilities, to resident, state, and facility records and the process to follow when access is denied.

**Chapter 700: Legal Issues**

describes the process to follow in seeking legal advice or consultation from the Office by Ombudsmen and Provider Agencies, representation and indemnification from the Attorney General or others, and procedures to follow when interference, retaliation, and/or reprisals exists.

**Chapter 800: Confidentiality, Disclosure, and Retention**

outlines the requirements to be followed by the Program and Ombudsmen to assure confidentiality of residents, complainants, witnesses, or others assisting in

the report, complaint, or investigation. It also explain how long records should be kept and in what manner.

**Chapter 900: Conflict of Interest**

defines conflict of interest for entities and individuals involved in the Program and procedures for the disclosure, review and remedying of a conflict of interest along with the penalties for failure to identify or remedy a conflict of interest.

**Chapter 1000: Volunteer Management**

defines the qualifications and role of volunteers in the Program.

**Chapter 1100: Home Care Program**

defines participants and the advocacy responsibilities of Ombudsmen

**Appendix A: Older Americans Act**

copy of 42 USC Sec. 3058

**Appendix B: Illinois Act on Aging**

copy of the Illinois Revised Statutes. 20 ILCS 105/1 et seq.

**Appendix C: Long-Term Care Ombudsman Program Rules**

copy of the Illinois Admin Code 270.10 et seq.

**Appendix D: Conflict of Interest Checklist**

copy of the Conflict of Interest Checklist Form

**Appendix E: State Employee Indemnification Act**

copy of the Illinois Revised Statutes. 5 ILCS 350/1 et seq.

**Appendix F: Appeal Procedures for Ombudsman Designation**

copy of appeal procedures for Ombudsman Provider Agency Designation

**Appendix G: Designation and Training**

copy of the Representative Registry Form

**Appendix H: Ombudsman Code of Ethics**

copy of the Code of Ethics for Ombudsmen

**Appendix I: Illinois Abused and Neglected Long-Term Care Facilities Resident Reporting Act**

copy of the Illinois Revised Statutes. 210 ILCS 30/

**Appendix J: Illinois Probate Act Sections Regarding POA and Guardianship**

copy of the Illinois Revised Statutes. 755 ILCS 5/ and 755 ILCS 45/

**Appendix K: Illinois Healthcare Worker Background Check Act**  
copy of the Illinois Revised Statutes. 225 ILCS 46/

**Appendix L: Access to Records of Residents Incapable of Giving Consent**  
copy of the Access to Records of Residents Incapable of Giving Consent form.

**104: Definitions**

For the purposes of this Policies and Procedures Manual, the following definitions will apply:

**Abuse**

Willful infliction of injury, unreasonable confinement, intimidation, cruel punishment with resulting physical harm, pain, or mental anguish; or willful deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

**Area Agency on Aging or AAA**

A public or private nonprofit agency designated by the IDoA in a planning and service area which is responsible for developing and administering an area plan for a comprehensive and coordinated system of services for caregivers and persons over the age of sixty.

**Area Plan**

A plan developed by an area agency on aging for its relevant planning and service area as set forth in the Older Americans Act.

**Background Check**

A fingerprint-based criminal history records check as defined by Section 15 of the Health Care Worker Background Check Act (225 ILCS 46/15).

**Case for Long-Term Care Residents**

Each request for assistance or allegation brought to, or initiated by, the Ombudsman Program on behalf of a resident or group of residents of long-term care facilities involving one or more complaints or problems which requires opening a case file and which includes Ombudsman investigation, fact gathering, development and implementation of a resolution strategy in keeping with Chapter 500.

**Case for Participants**

Each request for assistance brought to the Ombudsman Program by or on behalf of a participant of medical waiver services and/or managed care organizations involving one or more complaints or problems which require opening a case file for advocacy and resolution strategies in keeping with Chapter 1100.

**Certification**

An individual who meets minimum qualifications, is free of conflicts of interest, has successfully completed training and other criteria stipulated in Appendix G and has been registered on the Ombudsman

Registry. Certification authorizes such individual to act as a representative of the Office or in keeping with this Manual;

**Community Education**

Presentations made to and or other meetings where an Ombudsman represents the Ombudsman Program with community groups, students, churches, etc. This includes attendance at community and health fairs and similar gatherings where the Ombudsman has a display and staff available to provide information to attendees.

**Community Ombudsman**

Community Ombudsman

An individual who has completed the basic training modules (Level I) and/or advanced training modules (Level II) and four (4) hours of probationary supervision. Level II trained ombudsmen have full access to resident records, program records, and works directly under the supervision of the RO. Level I Ombudsman have access to records at the discretion of the RO.

**Complaint**

A concern or allegation regarding action, inaction, or decisions that may or have adversely affected the health, safety, welfare, or rights of one or more residents or participants that is brought to the attention of, or initiated by, the Ombudsman for action.

**Conflict of Interest**

A competing interest, obligation, or duty which compromises, influences, interferes with (or gives the appearance of compromising, influencing or interfering with) the integrity, activities, or conduct of all designated ombudsmen, the Department, SLTCO, AAA or Provider Agency in faithfully and effectively fulfilling his or her official duties.

**Consultations**

The provision of information and assistance to individuals regarding long-term care facilities and resident services which does not involve investigating and working to resolve complaints (i.e., a consultation is not a case). A consultation may include when the Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.

**Date of First Action**

The date of contact with the resident or resident's guardian or participant which results in a preliminary plan for either an investigation or steps to be taken toward resolution.

**Department or IDoA**

The Illinois Department on Aging (IDoA).

**Designation**

The designation of an entity as the Ombudsman Program provided by the Office to: Provider Agency which meets the minimum qualifications stipulated in Section 305 of this Manual. Designation authorizes such agency as a local Ombudsman entity to operate a Regional Ombudsman Program in a planning and service area or a specified geographic area thereof.

**Director**

The Director of the Illinois Department on Aging.

**Exploitation**

The illegal or improper act or process of an individual, including a caregiver, using the resources of an older adult or adult with a disability for monetary or personal benefit, profit, or gain.

**Family Council Activities**

Provision of technical assistance, information, training or support to the family members of residents and/or facility staff about the development, education, work, or maintenance of a family council.

**Good Faith**

Evidence of performing duties in “good faith” includes, but is not limited to:

- A. Making reasonable efforts to follow procedures set forth in applicable laws and this Manual;
- B. Seeking and making reasonable efforts to follow direction from the Office of the State Long-Term Care Ombudsman; and,
- C. Seeking and making reasonable efforts to follow direction from the relevant Regional Ombudsman.

**Guardian**

Person or entity appointed by a court to exercise the legal rights and powers of another individual as specified in the court order.

**Home Care Ombudsman**

A long-term care Ombudsman providing advocacy services to participants of Managed Care Organization and Medical Assistance Waiver programs.

**Immediate family**

Those persons related to an individual such as a spouse, child, sibling, parent or domestic partner.

**Intake Date**

The date of receipt of the information or message received by the Ombudsman Provider Agency.

**Interference**

Includes, but is not limited to, the following: the infliction of physical harm; threats to inflict physical harm; intimidation; deception; tampering with physical evidence; destroying, hiding, or altering records; making false statements or encouraging others to do so; bribery or attempted bribery; retaliation; and restricting, without legal authority, the personal movements or travel of any individual, when such actions are done for the sole purpose of preventing the Ombudsman from discharging his or her official duties.

**Inquiries**

The provision of information and assistance to individuals regarding medical assistance waiver services and managed care organization services which does not involve investigating and working to resolve complaints (i.e., a consultation is not a case). A consultation may include when the Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.

**In-service Education and Training**

A presentation to Ombudsman or long-term care facility staff on long-term care issues.

**Interagency coordination**

Activities that involve meeting or coordinating with other agencies to learn about and to improve conditions for one or more residents of long-term care facilities or participants of medical waiver programs and managed care organizations.

**Issues Advocacy**

Activities supporting and promoting issues that benefit or advance the health, safety, welfare or rights of residents of long-term care facilities and participants of medical waiver programs and managed care organizations.

**Legal Representative**

A guardian; an agent under a valid power of attorney, provided that the agent or attorney-in-fact is acting within the scope of his or her agency;

surrogate decision maker; or an executor or administrator of the estate of a deceased resident or participant.

### **Long-Term Care Facility or Facility**

Long-Term Care Facility means any facility as defined in 20 ILCS 105/4.04 (a)(2) of the Illinois Act on Aging and by Section 1-113 of the Nursing Home Care Act, as now or hereafter amended; and any skilled nursing facility or a nursing facility which meets the requirements of Section 1819 (a), (b), (c), and (d) or Section 1919 (a), (b), (c), and (d) of the Social Security Act, as now and hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and (d); and any facility as defined by Section 1-113 of the MR/DD Community Care Act, as now or hereafter amended. Facilities that meet the requirements of Section 10 of the Assisted Living and Shared Housing Act as well as facilities established under Section 5-5.01a of the Illinois Public Aid Code. Facilities or establishments with the following types of licensed beds or certified units are included in the definition:

- A. skilled nursing;
- B. Intermediate care;
- C. Illinois Department of Veterans' Affairs facilities
- D. intermediate care for individuals with intellectual disabilities (excluding Under 22 facilities);
- E. sheltered care;
- F. assisted living;
- G. shared housing; and,
- H. supportive living - a facility established under Section 5-5.01a of the Illinois Public Aid Code.

### **Long-Term Care Ombudsman**

An individual designated by the State Long-Term Care Ombudsman as:

- A. A Regional Ombudsman;
- B. A Community Ombudsman; OR
- C. A Volunteer Ombudsman.

**Long-Term Care Ombudsman Program**

Unless otherwise specified, “LTCOP” means the statewide long-term care resident advocacy Program established and operated by IDoA. Long-Term Care is inclusive of long-term care facilities, medical assistance waiver programs and managed care organizational services.

**Managed Care Organization (MCO)**

A managed care organization (MCO) licensed and approved to provide care coordination and other services to seniors and people with disabilities in the state of Illinois.

**Medical Assistance Waiver**

Medical Assistance Waiver administered by the State of Illinois with approval from the U.S. Health and Human Services Centers for Medicaid and Medicare Services (CMS).

**Multidisciplinary Team**

A group on individuals selected by the Regional Ombudsman which acts in an advisory role for the purpose of providing professional knowledge and expertise in handling complex abuse, neglect, and advocacy issues.

**Neglect**

The failure to provide the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caregiver to provide the goods and services.

**Office**

The Office of the State Long-Term Care Ombudsman Program is composed of the State Ombudsman and immediate support staff.

**Official Duties**

Those duties of an Ombudsman as set forth in applicable federal and state law and this Manual.

**Ombudsman Annual Services Plan**

A written plan, prepared by the Regional LTCOP, for submission to the Office and/or the area agency on aging, setting goals and objectives for the regional LTCOP for the following federal fiscal year.

**Participant**

A person receiving a medical assistance waiver administered by the State or a person receiving care coordination and other services by a managed care organization.

**Planning and Service Area or PSA**

A geographic area of the State, as defined in the Illinois Act on Aging, that is designated by the IDoA for the purposes of planning, development, delivery, and overall administration of services under an area plan.

**Policies and Procedures Manual**

The Long-Term Care Ombudsman Program Manual, governing the operations of the Long-Term Care Ombudsman Program and establishing the relationship and responsibilities of Provider Agencies, AAAs, and the Department in relation to the Long-Term Care Ombudsman Program.

**Policy Clarification Request Committee**

A committee created by the Office to advise on policies and procedures.

**Program**

The State Long-Term Care Ombudsman Program as established and operated by the Department and carried out through the Office and headed by the State Ombudsman.

**Program Records**

All files, records, correspondence, documentation, case notes and communications related to a specific case or client.

**Provider Agency**

The entity designated by the Office to operate a Regional LTCOP in a planning and service area or a specified geographic area.

**Record Check**

Obtain the authorization for a record check from a student, applicant, employee, or volunteer.

**Record**

**1. Resident of a long-term care facility**

Any medical, social, personal and financial information maintained by any long-term care facility, or by any State or local agency, pertaining to a resident of a long-term care facility or to the facility.

**2. Participant in waiver program or managed care organization**

Any medical, social, personal and financial information maintained by any medical assistance waiver program or managed care organization.

**Regional Long-Term Care Ombudsman Program or Regional Program**

An entity designated by the Office as a local Ombudsman entity.

**Regional Ombudsman**

A person who works full-time (35-40 hours/week) to perform LTCOP functions exclusively and who shall have no duties in the Provider Agency outside the scope of the LTCOP as defined in state and federal law and this Manual. S/he has the overall responsibility for the activities of the Regional LTCOP as defined in this Manual.

**Registry or Ombudsman Registry**

The official listing of Ombudsmen, maintained by the Office, who have been designated as representatives of the Office of SLTCO.

**Representative****1. Resident's Representative**

Any person who is knowledgeable about a resident's circumstances and has been designated by that resident in writing to represent him or her, including a resident's legal representative or the resident's legal guardian. (210 ILCS 45/1-123)

**2. Participant's Representative**

Any person who is knowledgeable about a participant's circumstances and has been designated by that participant in writing to represent him or her.

**Resident**

Any person who is currently resides in a long-term care facility, an individual seeking admission to a long-term care facility, a former resident, or a deceased resident.

**Resident Council Activities**

Provision of technical assistance, information, training or support to the residents, family members and/or facility staff about the development, education, work or maintenance of a resident council.

**State Ombudsman**

The **State Long-Term Care Ombudsman** who is selected and authorized to head the State Long-Term Care Ombudsman Program, who meets the requirements set forth in this Policies and Procedures Manual.

**Unit of Service**

One hour of time expended by an Ombudsman within the LTCOP.

**Volunteer Ombudsman**

A person who has met the designation and training certification requirements of the Program and who performs services without pay.



**105: Policy Clarifications, Revisions, and Waivers to this Manual**

- A. Policy Clarification Requests (PCR)
  - 1. When necessary, the Office shall issue clarifications of this Manual according to the following process
  - 2. PCRs may be submitted to the Office by an AAA, a Provider Agency, or Regional Program using the form developed by the Office. A response to a PCR will be made within thirty (30) working days by either responding directly to the clarification request or requesting further information from the requestor.
  - 3. The Office shall create a PCR workgroup.
- B. Revisions to this Manual
  - 1. Revisions to this Manual will be made by the Office, after consultation with the Department.
  - 2. When appropriate, the Office will seek input from the AAAs, Provider Agencies, and Regional Programs.
  - 3. Revisions to this Manual will be distributed electronically to the AAAs, Regional Programs, and Provider Agencies
  - 4. A Provider Agency on the date of issuance of the Manual, or any revisions thereto, shall continue to be designated for the duration of the previously established designation period unless de-designated by the State Ombudsman.
- C. Waivers
  - 1. The Department may grant a waiver to a standard of this Manual when a written request is received from an AAA, Provider Agency or Regional Ombudsman which contains justification to support the approval. The AAA, Provider Agency and Regional Ombudsman will be notified in writing if a waiver has been approved.
  - 2. A request for waiver must be made in writing to the Office and approved by the Department prior to:
    - a. hiring or promotion of the employee in question; or
    - b. implementing the reduced minimum standard.